

## EXEMPTIONS FROM TERRITORIAL JURISDICTION

whereby an estate devolves upon the State, the latter would have been substituted without being able to rely on the exercise of sovereign power, and there would in that case be no reason to regard the State as immune from the jurisdiction. It would be likewise if a contract had been made by the State to take over the liabilities of the Bank. In this case, however, we are concerned with a Law which had nationalized banks in the public interest in accordance with the policy pursued by the State concerned.

*Pauer v. Hungarian People's Republic*, [1957] Int'l L. Rep. 211, 212.

The English Court of Appeal in *Kahan v. Pakistan Federation* in 1951 that the Federation of Pakistan, although within the British Commonwealth, had the status of an independent sovereign State and had the same position as a defendant in a suit brought in the United Kingdom as any other foreign sovereign. Concerning the sovereign immunity of the Federation of Pakistan, Jenkins, L. J., said:

"The general rule is well settled, and it is unnecessary for me to do more than refer to the statement of it given in the speech of Lord Atkin in the case of *Compania Naviera Vascongado v. S.S. Cristina* [1938] A.C. 485, 490], where he said: 'The foundation for the application to set aside the writ and arrest of a ship is to be found in two propositions of international law which have been engrafted into our domestic law which seem to me to be well established and to be beyond dispute. The first is that the courts of a country will not implead a foreign sovereign, that is, they will not by their process make him against his will a party to legal proceedings whether the proceedings involve process against his person or seek to recover from him specific property or damages. The second is that they will not by their process, whether the sovereign is a party to the proceedings or not, seize or detain property which is his or of which he is in possession or control. There has been some difference in the practice of nations as to the possible limitations of this second principle as to whether it extends to property only used for the commercial purposes of the sovereign or to personal private property. In this country it is in my opinion well settled that it applies to both'.

"... A foreign sovereign cannot be directly impleaded unless he submits to the jurisdiction of the court."

The Court held that the case came within the first proposition stated.

*Kahan v. Pakistan Federation*, [1951] 2 K.B. 1003, 1010-1012.

The case of *Dollfus Mieg et Compagnie S.A. v. Bank of England* involved 61 bars of gold stated to be owned by a French company, Dollfus Mieg et Cie S.A., that the Germans in 1944 had forcibly and wrongfully removed from a French bank. The Tripartite Commission which was established in 1946 by an agreement among a number of the

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